

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS**

IN RE PHARMACEUTICAL INDUSTRY  
AVERAGE WHOLESale PRICE  
LITIGATION

MDL NO. 1456

CIVIL ACTION: 01-CV-12257-PBS

THIS DOCUMENT RELATES TO:  
ALL ACTIONS

Hon. Patti B. Saris

**FILED UNDER SEAL**

**DECLARATION OF PHILIP D. ROBBEN IN OPPOSITION TO PLAINTIFFS'  
MOTION TO CERTIFY CLAIMS WITH RESPECT TO DEFENDANT DEY, INC.**

**[REDACTED VERSION]**

**PHILIP D. ROBBEN** declares, pursuant to 28 U.S.C. § 1746, that:

1. I am associated with the law firm of Kelley Drye & Warren LLP, attorneys for Defendant Dey, Inc. ("Dey") in this action. I have been admitted *pro hac vice* by the Court to practice in this district for the purposes of this case.
2. I make this declaration in opposition to Plaintiffs' motion to certify claims with respect to Dey. Specifically, I make this declaration to place before the Court certain documents and deposition testimony relevant to Dey's opposition to Plaintiffs' motion. The documents and deposition testimony annexed as exhibits hereto are discussed in Dey's Individual Memorandum In Opposition To Plaintiffs' Motion To Certify Claims With Respect To Dey, which accompanies this declaration.
3. I make this declaration from my own personal knowledge of the facts and circumstances set forth herein. The source of my knowledge is my review of Kelley Drye & Warren LLP's file on this litigation, including my review of the documents and deposition testimony annexed as exhibits hereto.

4. Annexed hereto as Exhibit A are true and correct copies of documents produced by Plaintiffs' counsel in this action.

5. Annexed hereto as Exhibit B are true and correct copies of selected pages from the deposition of Hunter G. Walters, held on March 28, 2006, along with an errata sheet associated with Mr. Walters' deposition.

**WHEREFORE**, Dey respectfully requests that the Court deny Plaintiffs' motion to certify claims with respect to Dey and grant Dey such other, further, and different relief as the Court deems to be just and proper.

I declare under penalty of perjury that the foregoing is true and correct. Executed on June 15, 2006.

\_\_\_\_\_  
/s Philip D. Robben

**PHILIP D. ROBBEN**

# **Exhibit A**

**[Redacted]**

**[Filed Under Seal]**

## **Exhibit B**

**[Redacted]**

**[Filed Under Seal]**

**CERTIFICATE OF SERVICE**

I certify that the foregoing document was served upon the following attorneys for the Plaintiffs at the address designated by them for service of papers:

Thomas M. Sobol, Esq.  
Hagens Berman Sobol Shapiro LLP  
One Main Street, 4th Floor  
Cambridge, MA 02142

Donald E. Haviland, Jr.  
Kline & Specter, P.C.  
1525 Locust Street, 19th Floor  
Philadelphia, PA 19102

by depositing true and correct copy of the foregoing document enclosed in a prepaid, sealed wrapper, in an official depository under the exclusive care and custody of the United States Post Office, within the State of New York, on June 15, 2006.

/s Peter Boiko

**PETER BOIKO**